

§ 40.47 Other businesses within factory.

(a) *General.* The appropriate TTB officer may authorize such other businesses within the factory of a manufacturer of tobacco products as he finds will not jeopardize the revenue, will not hinder the effective administration of this part, and will not be contrary to law. A manufacturer of tobacco products who wishes to engage in another business within the factory must submit a written application to do so to the appropriate TTB officer. Except as otherwise provided in paragraph (b) of this section, a manufacturer of tobacco products may not engage in such other business until the application is approved by the appropriate TTB officer. The manufacturer must retain as part of its records any authorization provided under this section.

(b) *Processed tobacco.* A manufacturer of tobacco products who removes processed tobacco for purposes other than destruction must apply for and obtain TTB authorization to engage in another business within the factory, in accordance with paragraph (a) of this section. Such manufacturer who is engaged in the processing of tobacco on April 1, 2009, and who applies for authorization before June 30, 2009, may continue to engage in such activity pending TTB action on the application.

EFFECTIVE DATE NOTE: By T.D. TTB-78, at 74 FR 29408, June 22, 2009, § 40.47 was revised, effective June 22, 2009 through June 22, 2012.

§ 40.48 Penalties and forfeitures.

Anyone who fails to comply with the provisions of this part becomes liable to the civil and criminal penalties, and forfeitures, provided by law.

(72 Stat. 1425, 1426; 26 U.S.C. 5761, 5762, 5763)

§ 40.49 Delegations of the Administrator.

Most of the regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.40, Delegation of the Administrator's Authorities in 27 CFR Part 40, Manufacture of Tobacco Products and Cigarette Papers and Tubes. You may obtain a copy of this order by accessing the TTB Web site

(<http://www.ttb.gov>) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB-44, 71 FR 16949, Apr. 4, 2006]

Subpart E—Qualification Requirements for Manufacturers of Tobacco Products**§ 40.61 Qualification.**

(a) *General.* Except as otherwise provided in paragraph (b) of this section, every person who manufactures tobacco products must qualify for, and obtain, a permit as a manufacturer of tobacco products in accordance with the provisions of this part.

(b) *Exceptions.* The following persons are not considered to be engaged in the business of manufacturing tobacco products for purposes of this part:

(1) A person who produces tobacco products solely for that person's own consumption or use;

(2) A proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse;

(3) A retailer of tobacco products, such as a tobacconist, who takes tax-paid tobacco products out of the package, as that term is defined in § 40.11, in front of waiting customers and places the tobacco products into a different container for immediate delivery to those customers; or

(4) A person whose operations are limited to, and who holds a permit as, a manufacturer of processed tobacco.

(c) *Minimum manufacturing and activity requirements.* A permit to manufacture tobacco products will only be granted to those persons whose principal business activity under such permit will be the manufacture of tobacco products. A permit will not be granted to any person whose principal business activity under such permit will be to receive or transfer tobacco products in bond. As a minimum activity requirement, in order to qualify for a permit, the quantity of tobacco products manufactured under the permit must be equivalent to, or exceed, the quantity to be transferred or received in bond under the permit. For the purposes of this section, the activity of packaging